



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)
)
Legario et al.)
)
Serial No. **10/646,930**)
)
Filed: **August 25, 2003**)
)
For: **Storage Stable ANFO explosive**)
 Compositions containing)
 Chemical Coupling Agents and)
 Method for Producing Same)

Art Unit: 3641

Examiner: Unknown

The Commissioner of Patents
& Trademarks
Washington, D.C. 20231
U.S.A.

Dear Sir/Madam:

DECLARATION UNDER 37 CFR 1.47(a) (REFUSAL TO JOIN)

I, Meredith Brill, hereby declare that:

1. I am a barrister and solicitor and a member of the Law Society of Upper Canada licensed to practice law in Ontario, Canada. I am also a Registered Canadian Patent Agent (Registration Number 11,208), and a Registered United States Patent Agent (Registration Number 55,763).
2. I am employed as an associate lawyer with Bereskin & Parr, and I have held this position for at least 2 years. As part of my job, I am familiar with matters relating to certain patent filings, and in particular, US Patent Serial No. 10/646,930. As such, based on my personal knowledge and a review of records in my possession and control, I have firsthand knowledge of the matters set out herein.
3. US Patent Serial No. 10/646,930 names Ron Robeniol Legario and Ivana Alilovic as co-inventors.

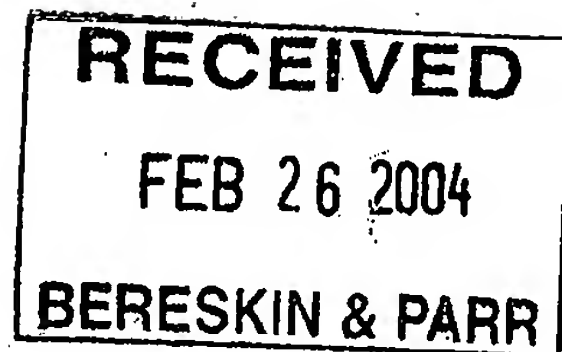
4. The purpose of this declaration is to set forth proof of the circumstances of the refusals of Ron Robeniol Legario to execute the appropriate declaration, as required under 37 CFR 1.47(a).
5. Ron Robeniol Legario refuses to sign the appropriate declaration, despite requests to get him to do so.
6. I am informed by ETI Holdings Corp. and do verily believe that Ron Robeniol Legario and Ivana Alilovic were employees of ETI Holding Corp. at all material times when this invention was made.
7. I have corresponded in writing, by e-mail, and speaking by telephone with Ron Robeniol Legario in regard to execution of a suitable declaration. He has informed me both orally and in writing that he refuses to sign the declaration. I understand that the reason for refusing to execute the declaration is that he does not want to recognize Ivana Alilovic as a co-inventor and that if the application was amended to delete her as an inventor he would agree to execute the declaration.
8. On February 26, 2004, I received a letter from Ron Robeniol Legario that enclosed a copy of a letter to Mr. Norman Tienkamp of ETI Holdings Corp. A copy of this letter and the enclosure is attached as Schedule "A" to this declaration.
9. It is my belief and the best information of my firm and the applicant that the last known mailing address of Ron Robeniol Legario is University of Sherbrooke, Electrical Engineering Dept. 2500 Boulevard De L'Universite, Sherbrooke, Quebec, J1K 2R1.
10. On March 11, 2004, I sent a copy of the application papers (specification, including claims, and declaration) and a cover letter of instructions to Ron Robeniol Legario's last known mailing address by courier. A copy of the cover letter is attached as Schedule "B" to this declaration.
11. On March 12, 2004, I received a telephone call from an employee at the courier company indicating that Ron Robeniol Legario signed for and received the application papers at 11:03 a.m. that day.
12. On April 16, 2004, I spoke with Ron Robeniol Legario by telephone and he expressly confirmed that he would not be signing the declaration that he had received.
13. This statement is made by the undersigned who declares that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further, that these statements are made with knowledge that willful false statements and the like so

made are punishable by fine or imprisonment, or both, under Section 1001 of the Title 18 of the U.S. Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Meredith Brill
Meredith Brill

JUNE 11, 2004
Date

Ron Legario
University of Sherbrooke
Electrical Engineering Dept.
Sherbrooke, Quebec
J1K 2R1



Feb. 19, 2004

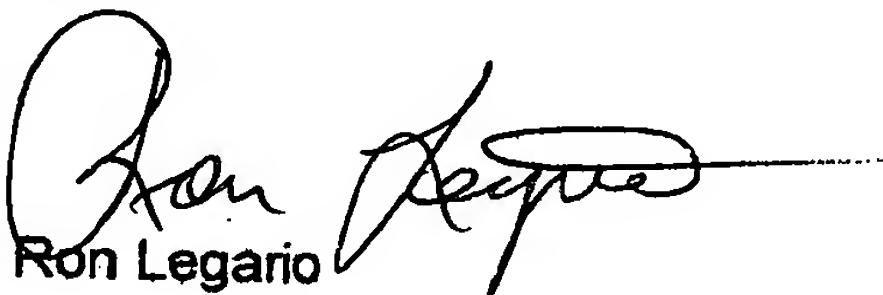
195 s/o (208)

Meredith Brill B.A.Sc (Chem Eng), LLB
Bereskin & Parr
Box 401 - 40 King Street West
Toronto, Ontario M5H 3Y2

Re: US and CA Patent Applications
For: STORAGE STABLE ANFO EXPLOSIVE COMPOSITIONS CONTAINING CHEMICAL COUPLING
AGENTS AND METHOD FOR PRODUCING SAME
Reference: 6826-194, 195

I apologize for the delay in replying to your request. I've had a host of other corporate deadlines to fulfill and other pressing obligations. I would like to note that there was a delay at ETI's end in getting me a copy of the patent.

I've enclosed a copy of a letter addressed to Mr. Norman Tienkamp of ETI, outlining my objections to the patent in its current form. I'll sign the release form if the patent is amended as outlined in the letter.


Ron Legario

Bereskin & Parr

INTELLECTUAL PROPERTY LAW



March 11, 2004

Meredith Brill B.A.Sc (Chem Eng), LLB
416 957 1688 mbrill@bereskinparr.com

Your Reference: N/A
Our Reference: 6826-194, 6826-195

By Courier

Ron Legario
University of Sherbrooke
Electrical Engineering Dept (Quantiscript)
2500 Boulevard De L'Universite
Sherbrooke, Quebec
J1K 2R1

Dear Ron:

Re: Canadian Patent Application No. 2,438,161
For: STORAGE STABLE ANFO EXPLOSIVE COMPOSITIONS CONTAINING
CHEMICAL COUPLING AGENTS AND METHOD FOR PRODUCING SAME

-and-

United States Patent Application 10/646,930
For: STORAGE STABLE ANFO EXPLOSIVE COMPOSITIONS CONTAINING
CHEMICAL COUPLING AGENTS AND METHOD FOR PRODUCING SAME

Further to our telephone discussion yesterday, I enclose a copy of the above-noted US patent application as filed, a revised US declaration and a revised assignment. Please arrange to have the revised US declaration and the revised assignment executed and witnessed where indicated. Please return the executed materials to us by courier for filing in the Canadian and United States Patent Offices.

Yours truly,

Meredith Brill
Meredith Brill
Encl.

BEST AVAILABLE COPY

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